

IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF CALIFORNIA

LEONARD TURNER,) No. C 08-2648 MMC (PR)
Plaintiff,)
v.) **ORDER OF TRANSFER**
SGT. RODGERS,)
Defendant.)

(Docket No. 2)

On May 27, 2008, plaintiff, a California prisoner incarcerated at the California State Prison at Solano (“CSP Solano”), and proceeding pro se, filed the above-titled civil rights action pursuant to 42 U.S.C. § 1983. Plaintiff alleges that defendant Rodgers, a Correctional Sergeant at CSP Solano, violated plaintiff’s constitutional rights.

Venue may be raised by the court sua sponte where the defendant has not filed a responsive pleading and the time for doing so has not run. See Costlow v. Weeks, 790 F.2d 1486, 1488 (9th Cir. 1986). When jurisdiction is not founded solely on diversity, venue is proper in (1) the district in which any defendant resides, if all of the defendants reside in the same state; (2) the district in which a substantial part of the events or omissions giving rise to the claim occurred, or a substantial part of the property that is the subject of the action is situated; or (3) a judicial district in which any defendant may be found, if there is no district in which the action may otherwise be brought. See 28 U.S.C. § 1391(b). When venue is

1 improper, the district court has the discretion to either dismiss the case or transfer it "in the
2 interest of justice." See 28 U.S.C. § 1406(a).

3 It is clear from the complaint that plaintiff's claims arise out of actions alleged to have
4 been committed at CSP Solano by a CSP Solano employee. CSP Solano is located in
5 Vacaville, which, in turn, is located in Solano County. Solano County is within the venue of
6 the Eastern District of California. See 28 U.S.C. § 84(b). As a result, venue is proper in the
7 Eastern District of California, not in the Northern District.

8 Accordingly, in the interest of justice, the above-titled action is hereby
9 TRANSFERRED to the United States District Court for the Eastern District of California. In
10 light of the transfer, this Court will defer to the Eastern District with respect to plaintiff's
11 application to proceed in forma pauperis.

12 The Clerk shall close the file and terminate Docket No. 2 on this Court's docket.

13 IT IS SO ORDERED.

14 DATED: June 6, 2008

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MAXINE M. CHESNEY
United States District Judge